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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,618	02/06/2004	Henry L. Ashwood JR.	3878 002	5075

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EXAMINER

JACKSON, ANDRE L

ART UNIT PAPER NUMBER

3677

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/772,618	Applicant(s) ASHWOOD, HENRY L.	
	Examiner Andre' L. Jackson	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/6/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 32, 33 and 37 are objected to because of the following informalities:

In claim 33, line 6, after the word “attached”, delete the word “means”. Appropriate correction is required.

Regarding claims 32 and 37, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d). Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 25-28, 30 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by USPN 6,625,851 to Martin et al. Martin et al (Figs. 8-10) discloses a fastening system for an article comprising a two piece strip (20, 22); an aperture (30, 46) in each piece of the two piece strip; a first attachment means (32, 52) attached to each of the two piece strip; a second attachment means (32, 52) attached to each piece of the two piece strip; a third attachment means (27,60; 55,60) for attaching at least one of the strips to an article.

As to claims 26-28 and 30, Martin et al discloses that the two piece strip has a right side (20) and a left side (22) and each of the apertures of the two piece strip is spaced from the third attachment means. The first attachment means is a plurality of male protrusions or snaps (52) and the second attachment means is a plurality of female depressions or snap receivers (32). The article as seen in Fig. 10 has a male snap.

As to claim 32, the two piece strip is formed of a flexible material such as plastic and is capable of flexibly folding to form an encapsulation means.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 25-37 are rejected under 35 U.S.C. 102(e) as being anticipated by USPN

6,588,078 to Writt et al. Writt et al discloses a tying device for a shoe comprising;

a two piece shoelace cover (14, 16) for a shoe; an aperture (**folded aperture** (Fig. 2) of cover 14 and **46** of cover 16) in each of the two piece shoelace cover; a first attachment means (36, 28) attached to each of the two piece shoelace cover; a second attachment means (38, 30) attached to each of the two piece shoelace cover; a third attachment means (30) for attaching at least one of the two piece shoelace cover to the shoe; and wherein when the third attachment means is coupled with the shoe and a shoelace is placed through the aperture of each of the two piece shoelace cover and bowed (Fig. 2), the first attachment means is coupled to the second attachment means of at least one of the covers of the two piece shoelace cover and the bow of the shoelace is encapsulated within the one of the two piece shoelace cover having the coupled first and second attachments (Fig. 2).

As to claims 26-30, 35 and 36, the tying device of Writt et al has a right side cover (16) and a left side cover (14), and each having the aperture spaced from the third attachment means. The first attachment means is a male snap (36, 28). The second attachment means is a female snap (38, 30). The third attachment means is also a female snap (30). As seen in Fig. 7, the shoe includes a male snap member (137).

As to claims 32 and 37, the body 12 of the tying device is formed of a flexible material capable of flexibly folding so as to provide encapsulation means for shoelace ends.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Writt et al. Writt et al fails to disclose or suggest that the two piece cover is colored as claimed. However, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the tying device of Writt et al to include a colored oriented two piece cover since a change in aesthetic appearance of a device is considered a design choice well known within the art. Furthermore, applicant does not state that a colored two piece cover solves any relevant problem or is for a particular purpose and the tying device of Writt et al operates and is fashioned equally as well.

Conclusion

Additional references are cited on the PTO 892 form but were not used to determine patentability of this application instead the references gave background information on known shoelace tying and cover devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (9:30 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andre' L. Jackson
Patent Examiner
AU 3677

ALJ


ROBERT J. SANDY
PRIMARY EXAMINER